

PLANNING COMMISSION MINUTES

August 16, 2000

CALL TO ORDER:

Chairman Dan Maks called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Dan Maks, Planning Commissioners Bob Barnard, Betty Bode, Sharon Dunham, Chuck Heckman, Eric Johansen and Vlad Voytilla. Commissioner Sharon Dunham was excused.

Principal Planner Hal Bergsma, Associate Planner Veronica Smith, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

VISITORS:

Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

OLD BUSINESS:

CONTINUANCES:

Chairman Maks opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response

A. CPA99-00015/TA99-00006 - Title 3 Water Quality and Flood Management

(Continued from July 19, 2000)

These case files relate to Periodic Review Work Task Nos. 4 and 5, addressing portions of Statewide Planning Goals 6 (water resources) and 7 (flood

management) in conformance to Metro's Functional Plan Title 3 requirements. City staff is proposing amendments to the Comprehensive Plan, the Engineering Design Manual and Standard Drawings, and the Development Code to protect the beneficial uses, functions, and values of resources within Metro's Functional Plan Title 3 water quality and flood management areas. The proposed amendments will acknowledge by reference the Unified Sewerage Agency's (USA's) recently adopted regulations that limit development activities within specified distances of wetlands and perennial and intermittent streams as shown in the Vegetated Corridor Widths table from the USA Design and Construction Standards. USA standards were enacted on February 22, 2000. The City, based on a 1990 Intergovernmental Agreement with USA, is required to enforce USA water quality standards and regulatory requirements. Additional amendments are proposed to support Metro requirements to reduce flood hazards and improve erosion control. The proposed amendments will not affect existing development.

B. CPA99-00014/TA99-00005 - Goal 5 Riparian and Wetland Protection

(Continued from July 19, 2000)

This is a Periodic Review Work Task No. 3 project, which responds to a portion of Statewide Planning Goals 5, relating to the protection of natural resources. The proposed amendments to the Comprehensive Plan and Development Code represent Goal 5 program decisions which would utilize the Unified Sewerage Agency's recently adopted development permitting process and Design and Construction Standards to protect significant resources identified on Beaverton's local Wetland Inventory and Inventory of Significant Riparian Corridors. These are the same standards that are applied to the Title 3 water features mentioned in the first notice above. The USA standards are consistent with the Safe Harbor program approaches identified in Oregon Administrative Rule (OAR) Sections 660-23-090(8) riparian corridors and 660-23-100(4)(b) wetlands. (The recently updated Goal 5 inventories of wetland and riparian corridors took into account areas that in the future, are most likely to be annexed to the City. As the City's boundaries expand, the City's natural resource protection program will apply to the newly annexed areas.) Existing development in the City will not be affected by the proposed regulations.

Principal Planner Hal Bergsma introduced Associate Planner Veronica Smith who discussed a Supplemental Memorandum, which she had distributed, and the Supplemental Staff Report, both of which are dated August 16, 2000. She stated her intent to indicate changes that had been made in response to suggestions from Commissioner Heckman.

7:04 p.m. – Commissioner Barnard arrived.

Ms. Smith referred to the Supplemental Staff Report, Chapter 8.6.1, page 17, line 14, and made the following correction:

1 “8.6.1. Goal: Maintain the functions and values of floodplains, to allow
2 for the storage and conveyance of stream flows through existing
3 and natural flood conveyance systems and to minimize the loss of
4 life and **property.**”

5
6 Ms. Smith referred to the Supplemental Staff Report, Chapter 8.6.1, page 17, line
7 24, and made the following correction:

8
9 “~~appropriate implementing ordinances and site plan ordinance.~~”

10
11 Ms. Smith referred to the Supplemental Staff Report, Chapter 8.6.1, page 18, line
12 28, and made the following addition:

13
14 “* See glossary for definitions.”

15
16 Ms. Smith referred to the Proposed Amendments to the Development Code, page
17 A-2-2, line 25, and made the following correction:

18
19 “~~Never the less in~~ **However,** the administration of...”

20
21 Ms. Smith referred to the Proposed Amendments to the Development Code, page
22 A-2-4, line 5, and Commissioner Heckman advised her that he had been satisfied
23 with her comments regarding this section.

24
25 Ms. Smith referred to the Proposed Amendments to the Development Code, page
26 A-2-8, line 25, and discussed problems that staff has encountered with the listing
27 of exclusions, observing that staff had left this information in for clarification
28 purposes.

29
30 Ms. Smith referred to the Proposed Amendments to the Engineering Design
31 Manual and Standard Drawings, page 2, line 4, and noted the following revision:

32
33 “No work regulated by the City’s codes shall commence prior to
34 ~~completion of~~ **approval by** the appropriate City **review** ~~approval~~ authority
35 for **of** the construction plans and issuance of the appropriate permit(s).”

36
37 Ms. Smith referred to the Proposed Amendments to the Engineering Design
38 Manual and Standard Drawings, page 2, line 11, and noted the following revision:

39
40 “A. **Submittal of** Service Provider Letter...”

41
42 Ms. Smith referred to the Proposed Amendments to the Engineering Design
43 Manual and Standard Drawings, page 2, line 12, and noted the following revision:

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45 “B. Completion of Board of Design Review ~~(or other appropriate land~~
46 use approval, including appeal periods).”

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Ms. Smith referred to the Proposed Amendments to the Engineering Design Manual and Standard Drawings, page 5, lines 1 and 2, and clarified that only Section 180 will be amended and that Section 190 is not included in the proposed revisions.

Ms. Smith referred to the Supplemental Memorandum, dated August 16, 2000, page 3; and the Staff Report for Title 3, dated July 19, 2000, pages 304 and 305, regarding the compliance section that USA had submitted to Metro and language that would apply to Title 3. She stated that this section must be amended in order to be in compliance with Title 3, adding that staff is recommending that this language be incorporated into the Text Amendment.

Chairman Maks questioned whether the standard is now 25 feet, rather than an average, adding that the City has always abided by USA's average.

Mr. Bergsma commented that amendments earlier this year had resulted in a standard 25 feet, adding that there are some revisions allowing for variances.

Ms. Smith referred to a change in the Memorandum dated August 16, 2000, specifically Section 40.80.15.3.B.9, observing that staff is recommending several word edits because in the Significant Natural Resource area, any wetland of ½-acre or larger would have a minimum 50-foot setback. She mentioned that the Safe Harbors for Goal 5 requires a minimum setback for fish-bearing streams of 50 feet, adding that it is appropriate to change this standard from 25 feet to 50 feet, in compliance with both Goal 5 and Title 3.

On question, Chairman Maks informed Ms. Smith that at this time, he would like to entertain questions on Title 3, followed by Goal 5. He pointed out that any delineation over three years old requires a new delineation.

Ms. Smith commented that this particular requirement is stated in the application.

Chairman Maks stated that in his opinion, a new delineation is necessary.

Mr. Bergsma observed that some administrative discretion is involved.

Chairman Maks expressed his opinion that it is foolish to require the applicant to provide a new delineation.

Ms. Smith stated that this involves existing language, adding that code has indicated that it is valid for three years and that no new language has been proposed.

Chairman Maks pointed out that he does not care whether the language is existing or new.

1 Ms. Smith advised Chairman Maks that the Development Services staff has
2 indicated that this entire section is scheduled to be rewritten soon.

3
4 Chairman Maks indicated that he would address this issue at that time, through
5 Code Review.

6
7 Mr. Bergsma pointed out that this is essentially interim language.

8
9 Ms. Smith mentioned that this is only being addressed because it was included in
10 the compliance report, adding that it is her understanding that this may be entirely
11 rewritten.

12
13 Chairman Maks observed that one of his biggest thrills is Code Review, and
14 requested questions regarding the Title 3 issues.

15
16 Commissioner Barnard commended Ms. Smith for her efforts in picking up on
17 everything he had found. He referred to A2, page 3, 60.5.10.1, line 28 through
18 36, adding that this one particularly lengthy sentence that drives him crazy.

19
20 Ms. Smith advised Commissioner Barnard that this sentence would actually get
21 longer, adding that she would consider any suggestions.

22
23 Commissioner Barnard suggested that this sentence be amended, as follows:

24
25 "1. Consistent with Unified Sewerage Agency Design and
26 Construction Standards, the floodplain is the flood management
27 area. This shall include those areas identified by the..."

28
29 Ms. Smith stated that this recommendation is perfectly acceptable and that she
30 would make the change.

31
32 Chairman Maks advised to watch out for long sentences with Commissioner
33 Barnard.

34
35 Commissioner Barnard pointed out that this was a three-inch sentence.

36
37 Commissioner Johansen referred to A2, page 8, requesting clarification regarding
38 non-permitted uses.

39
40 Mr. Bergsma explained that the general practice of the staff has been not to list
41 uses that are not permitted, adding that only permitted uses are listed. He
42 mentioned concern of the staff that the definition of certain development,
43 particularly farming activities, might be applied inappropriately.

44
45 Commissioner Voytilla expressed concern with the definition of development,
46 clarifying that there are ramifications with the alterations of existing properties.

1 He discussed placement of utilities, storm water conveyances, bridges and
2 culverts, and questioned the status of roads.

3
4 Mr. Bergsma advised Commissioner Voytilla that the use of the word bridges is
5 supposed to cover that.

6
7 Commissioner Voytilla observed that bridges could be for pedestrian or railroad,
8 adding that roadways are more definite.

9
10 Commissioner Heckman expressed his agreement that roadways indicate a very
11 specific meaning.

12
13 Ms. Smith observed that this is flood way, adding that roads do sometimes occur
14 in the flood way.

15
16 Commissioner Voytilla pointed out that they might need widening or further
17 improvements that should be covered. He referred to page 7 of A2, paragraph 6,
18 lines 13 through 19, regarding the basic elevation of manufactured homes,
19 specifically why this does not relate to all structures.

20
21 Ms. Smith advised Commissioner Voytilla that this is existing language, adding
22 that there should be further clarification in the Building Code.

23
24 On question, Commissioner Bode indicated that she has nothing further to add.

25
26 On question, Commissioner Heckman observed that all of his questions have been
27 addressed.

28
29 Chairman Maks stated that his question had also been addressed.

30
31 **PUBLIC TESTIMONY:**

32
33 On question, no member of the public appeared to testify at this time.

34
35 On question, Mr. Naemura indicated that he has no questions or comments at this
36 time.

37
38 Chairman Maks stated that he would like to discuss Goal 5 at this time.

39
40 Ms. Smith indicated that she has five "Heckmans" to address regarding Goal 5.

41
42 Chairman Maks instructed Ms. Smith to address these issues.

43
44 Ms. Smith referred to Chapter 7.5, specifically the section regarding parks and
45 recreation, clarifying that staff did not intend to imply that this would be deleted

1 and only wanted to be certain that Commissioners review this section that will be
2 moved at a later time.

3
4 Ms. Smith referred to Chapter 7.3, page 10, noting that because this does not
5 apply to these amendments and this is for reference purposes only, staff is not
6 recommending changes at this time.

7
8 Ms. Smith referred to page 15, line 31, specifically: "These conflicting uses can
9 be managed through regulatory provisions that limit encroachment through
10 adequate setback requirements." She mentioned that Commissioner Heckman
11 had been concerned with what is considered "adequate", adding that this existing
12 language had been moved to this section, suggesting that the words "through
13 adequate setback requirements" be deleted.

14
15 Chairman Maks discussed the requirements and intent of a hardship variance.

16
17 Chairman Maks observed that while Washington County provides for a hardship
18 variance, the City of Beaverton does not. Mr. Bergsma concurred and suggested
19 that the word "hardship" could be deleted.

20
21 On question, Ms. Smith advised Chairman Maks that variances are included under
22 Section 40.80.

23
24 Mr. Naemura stated that an interpretation of this section (page 221) would most
25 likely have the desired result.

26
27 Ms. Smith referred to page 21, line 15, suggesting that it be amended, as follows:
28 "...hardship ~~shall~~ may be provided..."

29
30 Mr. Bergsma advised Chairman Maks that staff would be reviewing sections of
31 the code, which may then be revised more appropriately in September or October
32 of 2000.

33
34 On question, Ms. Smith informed Chairman Maks that staff would like to change
35 the word "shall" to "may". She mentioned that other changes are not relevant to
36 this amendment but noted for future amendments all the way through to 27,
37 although these issues can not be addressed at this time.

38
39 Chairman Maks discussed his concern that no one be allowed an opportunity to
40 take advantage of a hardship variance.

41
42 Ms. Smith noted that she has one additional amendment for Goal 5, although it is
43 not a "Heckman".
44

1 Commissioner Heckman commented that the cleanup of the language has made
2 this document more easily read and understood, and expressed his appreciation to
3 staff for their time and efforts.

4
5 Chairman Maks complimented Ms. Smith's Staff Report, adding that he
6 appreciates the manner in which she addressed the issues.

7
8 On question, Ms. Smith informed Chairman Maks that two Public Hearings have
9 been held on this issue, on July 19, 2000 and August 16, 2000, adding that the
10 work sessions had been initiated approximately a year ago.

11
12 **PUBLIC TESTIMONY:**

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14 On question, no member of the public appeared to testify at this time.

15
16 On question, Mr. Naemura had no comments or questions at this time.

17
18 The public portion of the Public Hearing was closed.

19
20 On question, Commissioners Heckman, Bode, Voytilla and Johansen expressed
21 their support and approval of Title 3, as amended.

22
23 Commissioner Heckman **MOVED** and Commissioner Barnard **SECONDED** a
24 motion to approve CPA 99-00015 – Title 3 Water Quality and Flood
25 Management, based upon the testimony, reports and exhibits presented during the
26 public hearing on the matter and upon the background facts, findings and
27 conclusions found in the Staff Reports dated July 19, 2000, August 16, 2000 and
28 Supplemental Memorandum dated August 16, 2000, with the Land Use Order to
29 reflect the revisions made by the Planning Commission on August 16, 2000.

30
31 Motion **CARRIED**, unanimously.

32
33 Commissioner Heckman **MOVED** and Commissioner Barnard **SECONDED** a
34 motion to approve TA 99-00006 – Title 3 Water Quality and Flood Management
35 based upon the testimony, reports and exhibits presented during the public hearing
36 on the matter and upon the background facts, findings and conclusions found in
37 the Staff Reports dated July 19, 2000, August 16, 2000 and Supplemental
38 Memorandum dated August 16, 2000, with the Land Use Order to reflect the
39 revisions made by the Planning Commission on August 16, 2000.

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41 Motion **CARRIED**, unanimously.

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43 Commissioner Heckman **MOVED** and Commissioner Barnard **SECONDED** a
44 motion to approve CPA 99-00014 – Goal 5 Riparian and Wetland Protection
45 based upon the testimony, reports and exhibits presented during the public hearing
46 on the matter and upon the background facts, findings and conclusions found in

1 the Staff Report dated July 19, 2000 and Supplemental Memorandum dated
2 August 16, 2000, with the Land Use Order to reflect the revisions made by the
3 Planning Commission on August 16, 2000.

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5 Motion **CARRIED**, unanimously.

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7 Commissioner Heckman **MOVED** and Commissioner Barnard **SECONDED** a
8 motion to approve TA 99-00005 – Goal 5 Riparian and Wetland Protection based
9 upon the testimony, reports and exhibits presented during the public hearing on
10 the matter and upon the background facts, findings and conclusions found in the
11 Staff Report dated July 19, 2000 and Supplemental Memorandum dated August
12 16, 2000, with the Land Use Order to reflect the revisions made by the Planning
13 Commission on August 16, 2000.

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15 Motion **CARRIED** unanimously.

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17 **MISCELLANEOUS BUSINESS:**

18

19 The meeting adjourned at 8:18 p.m.